

2SSB 6558 - H COMM AMD
By Committee on Finance

ADOPTED AS AMENDED 03/06/2006

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature recognizes the motion
4 picture industry in Washington as a valuable commodity contributing
5 greatly to the economic vitality of the state and the cultural
6 integrity of our communities. The legislature further recognizes the
7 production of in-state motion pictures, television programs, and
8 television commercials creates a marked increase in tourism, family
9 wage jobs, and the sale of local goods and services generating revenue
10 for the state. Furthermore, with captive national and international
11 audiences, the world is introduced to the state's pristine scenic
12 venues and reminded that the Pacific Northwest is a great place to live
13 and raise a family. The legislature also recognizes the inherent
14 educational value of promoting arts and culture as well as the benefits
15 of training young motion picture professionals who will build a
16 fruitful industry for years to come.

17 The legislature finds in recent years that the state has realized
18 a drastic decline in motion picture production that precludes economic
19 expansion and threatens the state's reputation as a production
20 destination. With the emergence of tax incentives in thirty states
21 nationwide, in-state producers are taking their projects to more
22 competitive economic climates, such as Oregon and Vancouver, British
23 Columbia, where compelling tax incentive packages and subsidies are
24 already in effect.

25 The legislature also finds that in recent years increasingly
26 workers in Washington state are without health insurance coverage and
27 retirement income protections, causing hardships on workers and their
28 families and higher costs to the state.

29 Therefore, it is the intent of the legislature to recognize both
30 national and international competition in the motion picture production

1 marketplace. The legislature is committed to leveling the competitive
2 playing field and interested in a partnership with the private sector
3 to regain Washington's place as a premier destination to make motion
4 pictures, television, and television commercials. While at the same
5 time the legislature is committed to ensuring that workers in the
6 motion picture and television industry are covered under health
7 insurance and retirement income plans.

8 NEW SECTION. **Sec. 2.** The following definitions apply to this
9 chapter, unless the context clearly requires otherwise.

10 (1) "Approved motion picture competitiveness program" means a
11 nonprofit organization under the internal revenue code, section
12 501(c)(6), with the sole purpose of revitalizing the state's economic,
13 cultural, and educational standing in the national and international
14 market of motion picture production by recommending and awarding
15 financial assistance for costs associated with motion pictures in the
16 state of Washington.

17 (2) "Contribution" means cash contributions.

18 (3) "Costs" means actual expenses of production and postproduction
19 expended in Washington state for the production of motion pictures,
20 including but not limited to payments made for salaries, wages, and
21 health insurance and retirement benefits, the rental costs of machinery
22 and equipment and the purchase of services, food, property, lodging,
23 and permits for work conducted in Washington state.

24 (4) "Department" means the department of community, trade, and
25 economic development.

26 (5) "Motion picture" means a recorded audio-visual production
27 intended for distribution to theaters, DVD, video, or the internet, or
28 television, or one or more episodes of a single television series,
29 television pilots or presentations, or a commercial. "Motion picture"
30 does not mean production of a television commercial of an amount less
31 than two hundred fifty thousand dollars in actual total investment or
32 one or more segments of a newscast or sporting event.

33 (6) "Funding assistance" means cash expenditures from an approved
34 motion picture competitiveness program.

35 (7) "Person" has the same meaning as provided in RCW 82.04.030.

1 NEW SECTION. **Sec. 3.** (1) The department shall adopt criteria for
2 an approved motion picture competitiveness program with the sole
3 purpose of revitalizing the state's economic, cultural, and educational
4 standing in the national and international market of motion picture
5 production. Rules adopted by the department shall allow the program,
6 within the established criteria, to provide funding assistance only
7 when it captures economic opportunities for Washington's communities
8 and businesses and shall only be provided under a contractual
9 arrangement with a private entity. In establishing the criteria, the
10 department shall consider:

11 (a) The additional income and tax revenue to be retained in the
12 state for general purposes;

13 (b) The creation and retention of family wage jobs which provide
14 health insurance and payments into a retirement plan;

15 (c) The impact of motion picture projects to maximize in-state
16 labor and the use of in-state film production and film postproduction
17 companies;

18 (d) The impact upon the local economies and the state economy as a
19 whole, including multiplier effects;

20 (e) The intangible impact on the state and local communities that
21 comes with motion picture projects;

22 (f) The regional, national, and international competitiveness of
23 the motion picture filming industry;

24 (g) The revitalization of the state as a premier venue for motion
25 picture production and national television commercial campaigns;

26 (h) Partnerships with the private sector to bolster film production
27 in the state and serve as an educational and cultural purpose for its
28 citizens;

29 (i) The vitality of the state's motion picture industry as a
30 necessary and critical factor in promoting the state as a premier
31 tourist and cultural destination;

32 (j) Giving preference to additional seasons of television series
33 that have previously qualified;

34 (k) Other factors the department may deem appropriate for the
35 implementation of this chapter.

36 (2) The board of directors created under section 4 of this act
37 shall create and administer an account for carrying out the purposes of
38 subsection (3) of this section.

1 (3) Money received by an approved motion picture competitiveness
2 program shall be used only for: (a) Health insurance and payments into
3 a retirement plan, and other costs associated with film production; (b)
4 a tax credit marketer to market the tax credits authorized under
5 section 5 of this act; and (c) staff and related expenses to maintain
6 the program's proper administration and operation.

7 (4) Maximum funding assistance from an approved motion picture
8 competitiveness program is limited to:

9 (a) Twenty percent of a total actual investment in the state of at
10 least five hundred thousand dollars, for a single feature film produced
11 in Washington state;

12 (b) Twenty percent of a total actual investment in the state of at
13 least three hundred thousand dollars per television episode produced in
14 Washington state; or

15 (c) Twenty percent of a total actual investment in the state of at
16 least two hundred fifty thousand dollars for an infomercial or
17 television commercial associated with a national or regional
18 advertisement campaign produced in Washington state.

19 (5) No single motion picture production or episodic television
20 project may be awarded an amount greater than one million dollars from
21 an approved motion picture competitiveness program.

22 (6) Funding assistance approval must be determined by the approved
23 motion picture competitiveness program within a maximum of thirty
24 calendar days from when the application is received, if the application
25 is submitted after August 15, 2006.

26 NEW SECTION. **Sec. 4.** (1) A Washington motion picture
27 competitiveness program under this chapter shall be administered by a
28 board of directors appointed by the governor, and the appointments
29 shall be made within sixty days following enactment. The department,
30 after consulting with the board, shall adopt rules for the standards
31 that shall be used to evaluate the applications for funding assistance
32 prior to June 30, 2006.

33 (2) The board shall evaluate and award financial assistance to
34 motion picture projects under rules set forth under section 3 of this
35 act.

36 (3) The board shall consist of the following members:

1 (a) One member representing the Washington motion picture
2 production industry;

3 (b) One member representing the Washington motion picture
4 postproduction industry;

5 (c) Two members representing labor unions affiliated with
6 Washington motion picture production;

7 (d) One member representing the Washington visitors and convention
8 bureaus;

9 (e) One member representing the Washington tourism industry;

10 (f) One member representing the Washington restaurant, hotel, and
11 airline industry; and

12 (g) A chairperson, chosen at large, shall serve at the pleasure of
13 the governor.

14 (4) The term of the board members, other than the chair, is four
15 years. A board member appointed by the governor may be removed by the
16 governor for cause under RCW 43.06.070 and 43.06.080.

17 (5) Five members of the board constitute a quorum.

18 (6) The board shall elect a treasurer and secretary annually, and
19 other officers as the board members determine necessary, and may adopt
20 bylaws or rules for its own government.

21 (7) The board shall make any information available at the request
22 of the department to administer this chapter.

23 (8) Contributions received by a board shall be deposited into the
24 account described in section 3(2) of this act.

25 NEW SECTION. **Sec. 5.** A new section is added to chapter 82.04 RCW
26 to read as follows:

27 (1) Subject to the limitations in this section, a credit is allowed
28 against the tax imposed under this chapter for contributions made by a
29 person to a Washington motion picture competitiveness program.

30 (2) The person must make the contribution before claiming a credit
31 authorized under this section. Credits earned under this section may
32 be claimed against taxes due for the calendar year in which the
33 contribution is made. The amount of credit claimed for a reporting
34 period shall not exceed the tax otherwise due under this chapter for
35 that reporting period. No person may claim more than one million
36 dollars of credit in any calendar year, including credit carried over

1 from a previous calendar year. No refunds may be granted for any
2 unused credits.

3 (3) The maximum credit that may be earned for each calendar year
4 under this section for a person is limited to the lesser of:

5 (a) One million dollars; or

6 (b)(i) Through calendar year 2008, an amount equal to one hundred
7 percent of the contributions made by the person to a program during the
8 calendar year; and

9 (ii) For calendar years after 2008, an amount equal to ninety
10 percent of the contributions made by the person to a program during the
11 calendar year.

12 (4) Except as provided under subsection (5) of this section, a tax
13 credit claimed under this section may not be carried over to another
14 year.

15 (5) Any amount of tax credit otherwise allowable under this section
16 not claimed by the person in any calendar year may be carried over and
17 claimed against the person's tax liability for the next succeeding
18 calendar year. Any credit remaining unused in the next succeeding
19 calendar year may be carried forward and claimed against the person's
20 tax liability for the second succeeding calendar year; and any credit
21 not used in that second succeeding calendar year may be carried over
22 and claimed against the person's tax liability for the third succeeding
23 calendar year, but may not be carried over for any calendar year
24 thereafter.

25 (6) Credits are available on a first in-time basis. The department
26 shall disallow any credits, or portion thereof, that would cause the
27 total amount of credits claimed under this section during any calendar
28 year to exceed three million five hundred thousand dollars. If this
29 limitation is reached, the department shall notify all Washington
30 motion picture competitiveness programs that the annual statewide limit
31 has been met. In addition, the department shall provide written notice
32 to any person who has claimed tax credits in excess of the three
33 million five hundred thousand dollar limitation in this subsection.
34 The notice shall indicate the amount of tax due and shall provide that
35 the tax be paid within thirty days from the date of such notice. The
36 department shall not assess penalties and interest as provided in
37 chapter 82.32 RCW on the amount due in the initial notice if the amount

1 due is paid by the due date specified in the notice, or any extension
2 thereof.

3 (7) To claim a credit under this section, a person must
4 electronically file with the department all returns, forms, and any
5 other information required by the department, in an electronic format
6 as provided or approved by the department. Any return, form, or
7 information required to be filed in an electronic format under this
8 section is not filed until received by the department in an electronic
9 format. As used in this subsection, "returns" has the same meaning as
10 "return" in RCW 82.32.050.

11 (8) No application is necessary for the tax credit. The person
12 must keep records necessary for the department to verify eligibility
13 under this section.

14 (9) A Washington motion picture competitiveness program shall
15 provide to the department, upon request, such information needed to
16 verify eligibility for credit under this section, including information
17 regarding contributions received by the program.

18 (10) The department shall not allow any credit under this section
19 before July 1, 2006.

20 (11) For the purposes of this section, "Washington motion picture
21 competitiveness program" or "program" means an organization established
22 pursuant to chapter 43.-- RCW (sections 1 through 4 of this act).

23 (12) No credit may be earned for contributions made on or after
24 July 1, 2011.

25 NEW SECTION. **Sec. 6.** (1) The legislature finds that
26 accountability and effectiveness are important aspects of setting tax
27 policy. In order to make policy choices regarding the best use of
28 limited state resources the legislature needs information on how
29 incentives are used.

30 (2) Each motion picture production receiving funding assistance
31 under section 3 of this act shall report information to the department
32 by filing a complete annual survey. The survey is due by March 31st of
33 the year following any calendar year in which funding assistance under
34 section 4 of this act is taken. The department may extend the due date
35 for timely filing of annual surveys under this section if failure to
36 file was the result of circumstances beyond the control of the motion
37 picture production receiving the funding assistance.

1 (3) The survey shall include the amount of funding assistance
2 received. The survey shall also include the following information for
3 employment positions in Washington by the motion picture production
4 receiving funding assistance, including indirect employment by
5 contractors or other affiliates:

6 (a) The number of total employment positions;

7 (b) Full-time, part-time, and temporary employment positions as a
8 percent of total employment;

9 (c) The number of employment positions according to the following
10 wage bands: Less than thirty thousand dollars; thirty thousand dollars
11 or greater, but less than sixty thousand dollars; and sixty thousand
12 dollars or greater. A wage band containing fewer than three
13 individuals may be combined with another wage band; and

14 (d) The number of employment positions that have employer-provided
15 medical, dental, and retirement benefits, by each of the wage bands.

16 (4) The department may request additional information necessary to
17 measure the results of the funding assistance program, to be submitted
18 at the same time as the survey.

19 (5) If a person fails to submit an annual survey under subsection
20 (2) of this section by the due date of the report or any extension the
21 department shall declare the amount of funding assistance for the
22 previous calendar year to be immediately due and payable. The
23 department shall assess interest, but not penalties, on the amounts due
24 under this section. The interest shall be assessed at the rate
25 provided for delinquent taxes under chapter 82.32 RCW, retroactively to
26 the date the funding assistance was received, and shall accrue until
27 the funding assistance is repaid.

28 (6) The department shall use the information from this section to
29 prepare summary descriptive statistics. The department shall report
30 these statistics to the legislature each year by September 1st. The
31 department shall provide the complete annual surveys to the joint
32 legislative audit and review committee.

33 NEW SECTION. **Sec. 7.** The provisions of section 5 of this act are
34 subject to review by the joint legislative audit and review committee.
35 The joint legislative audit and review committee will make a
36 recommendation to the house finance committee and the senate ways and
37 means committee by December 1, 2010, regarding the effectiveness of the

1 motion picture competitiveness program including, but not limited to,
2 the amount of state revenue generated, the amount of family wages jobs
3 with benefits created, adherence to the criteria in section 3 of this
4 act, and any other factors deemed appropriate by the joint legislative
5 audit and review committee.

6 NEW SECTION. **Sec. 8.** Sections 1 through 4, 6, and 7 of this act
7 constitute a new chapter in Title 43 RCW."

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